

The decedent died as a result of a myocardial infarction on May 1, 1991. The Administrative Law Judge denied benefits as he concluded that claimant failed to show that the exertion of the work necessary to precipitate the myocardial infarction was more than the decedent's usual work in the course of his regular employment. Claimant requests the Appeals Board review that finding. That is the sole issue now before the Board.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire record, the Appeals Board finds, as follows:

(1) It is more probably true than not that the exertion of the work which precipitated decedent's myocardial infarction on May 1, 1991, was not greater than the decedent's usual work in the course of his regular employment. Therefore, the Administrative Law Judge was correct in his determination that this claim is not compensable under the Kansas Workers Compensation Act.

The statute dealing with the compensability of coronary conditions, including myocardial infarctions, is K.S.A. 44-501(e). The statute reads:

"Compensation shall not be paid in case of coronary or coronary artery disease or cerebrovascular injury unless it is shown that the exertion of the work necessary to precipitate the disability was more than the employee's usual work in the course of the employee's regular employment."

The decedent worked as a derrick hand for the respondent on an oil field drilling rig. As a derrick hand, claimant regularly performed heavy physical labor. As part of his job duties claimant was required to work at the top of the derrick to assist in the pulling and guiding of the drilling pipe. Claimant would frequently use a twenty (20) pound sledgehammer in this work. As an oil field roughneck, claimant would routinely mix the mud and chemicals used in the drilling process and be required to lift sacks weighing one-hundred (100) pounds, dig ditches and wastewater holding areas with a hand shovel, and assist in the rigging-up and rigging-down of derricks.. As indicated by the decedent's immediate supervisor, Michael Krom, the job of an oil field roughneck is very strenuous, physical work that requires one to strain himself no matter what you are doing.

The claimants contend that the Administrative Law Judge erred in failing to find that the work decedent was doing at the time of his myocardial infarction was more than his usual work in the course of his regular employment. Claimants base this assertion upon the fact that decedent was to assist in rigging-up and rigging-down two different derricks on the day of the heart attack. However, the Appeals Board disagrees. Upon analysis, claimants' argument is that this incident should be compensable because claimant would have been required to work at a faster pace and for a longer duration in order to complete the rigging-up and rigging-down of the two derricks. The evidence does not support such contention. It is more probably true than not that decedent began to experience his myocardial infarction at the work site of the first derrick before 11:00 a.m. At the time of the incident, the decedent had been working for approximately three to four (3-4) hours and had not begun work on the second rig.

Although the duration of strenuous physical labor may be one of the factors in determining whether the exertion of the work necessary to precipitate the myocardial infarction was greater than the decedent's usual work, the evidence fails to prove that the duration of the physical labor exceeded that normally expected of the decedent. As the evidence indicates, on some days the decedent was required to manhandle and mix one-hundred (100) pound sacks of drilling mud the duration of his entire eight-hour shift. Based upon the evidence contained in the entire record, the Appeals Board finds that the work claimant was performing at the time of his myocardial infarction was no greater than his usual and regular work activities.

(2) The Appeals Board adopts the findings and conclusions of Administrative Law Judge Thomas F. Richardson as set forth in his Award of February 10, 1994, that are not inconsistent with those specifically set forth herein.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge Thomas F. Richardson, dated February 10, 1994, is affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of September, 1994.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

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